

New York
Menlo Park
Washington DC
São Paulo
London

Paris
Madrid
Tokyo
Beijing
Hong Kong



Brian S. Weinstein

Davis Polk & Wardwell LLP 212 450 4972 tel
450 Lexington Avenue 212 701 5972 fax
New York, NY 10017 brian.weinstein@davispolk.com

December 8, 2017

Re: Deutsche Bank National Trust Company, solely in its capacity as Trustee for the Morgan Stanley Structured Trust I 2007-1 v. Morgan Stanley Mortgage Capital Holdings LLC,
No. 14 Civ. 3020 (KBF)

The Honorable Katherine B. Forrest
United States District Judge
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street
New York, New York 10007

Dear Judge Forrest:

We represent defendant in the above-captioned matter. We write to apprise the Court of the attached decision in Deutsche Bank National Trust Co. v. Barclays Bank PLC, Nos. 651338/13, 652001/13 (N.Y. App. Div. 1st Dep't Dec. 5, 2017) ("Barclays"). In Barclays, the First Department dismissed the same type of claims as those brought here by the same plaintiff—Deutsche Bank National Trust Company ("Deutsche Bank"), a California resident—as time barred under California's four year statute of limitations for breach of contract actions, which Barclays held was applicable pursuant to New York's borrowing statute, N.Y. C.P.L.R. § 202. Because Morgan Stanley believes that the reasoning in Barclays is equally applicable to this action and counsels strongly in favor of dismissal of Deutsche Bank's complaint as time-barred, we respectfully request that the Court defer resolution of Morgan Stanley's pending motion for summary judgment [Dkt. Nos. 111-12, 124] until the parties have had an opportunity to brief the impact of Barclays.

We understand that counsel for Deutsche Bank in the Barclays matter has indicated that Deutsche Bank will likely seek leave to appeal to the New York Court of Appeals, and the defendants in the repurchase actions that Deutsche Bank has brought in New York state court will be seeking to stay those actions until the final resolution of Deutsche Bank's appeal. In the event that this Court is willing to accept briefing from the parties on the impact of the Barclays decision, we respectfully propose, in the interest of efficiency, that the parties brief the issue after either the Court of Appeals has issued a decision in Barclays or leave to appeal is denied. Of course, we are happy to brief the issue now if that would be the Court's preference.

Thank you for the Court's consideration of this matter.

Hon. Katherine B. Forrest

2

December 8, 2017

Respectfully submitted,

/s/ Brian S. Weinstein

Brian S. Weinstein

Attachment

cc w/ att: Counsel of Record (via ECF)